



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB- 174805

PRELIMINARY RECITALS

On June 1, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Waupaca County Department of Social Services regarding Medical Assistance (MA). The hearing was held on July 6, 2016, by telephone.

The issue for determination is whether the petitioner's appeal of the December 31, 2015 discontinuation of his QMB benefits is timely.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services

[REDACTED]

Waupaca County Department of Social
Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waupaca County.

2. On December 1, 2016 the petitioner completed a renewal for his QMB benefits.
3. On December 2, 2016 the agency sent the petitioner a notice stating that he had to verify his current bank account. The notice stated that the verification was due to the agency by December 11, 2015. This notice was sent to the petitioner's current address. The petitioner received this notice. The petitioner did not timely verify his bank account balance.
4. On December 14, 2016 the agency sent the petitioner a notice stating that his QMB benefits were terminating effective January 1, 2016 for failing to provide timely verification. The notice also stated that if the petitioner disagreed with the termination he had until February 16, 2016 to file an appeal with the Division of Hearings and Appeals.
5. The petitioner did not timely file an appeal regarding the termination of his QMB benefits with the Division of Hearings and Appeals.
6. The agency next heard from the petitioner on April 1, 2016. The petitioner called to ask why his QMB benefits had closed. The agency explained that he had failed to provide verification. In April 2016 the petitioner verified his bank account balance and also reapplied for QMB benefits. Effective May 1, 2016 the petitioner is receiving QMB benefits.
7. The Division of Hearings and Appeals received the petitioner's Request for Fair Hearing on June 6, 2016.

DISCUSSION

DHA can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if an appeal is untimely. An appeal concerning MA is untimely if it is not received by DHA within 45 days of the date of the action being appealed. See, 42 C.F.R. § 431.221(d); Wis. Stat. § 49.45(5); Wis. Admin. Code § DHS 104.01(5)(a)3; Wis. Admin. Code § HA 3.05(3). A Hearing request that is not received within the 45-day time period must be dismissed for lack of jurisdiction. Wis. Admin. Code § HA 3.05(4)(e).

In this case the petitioner's appeal is not timely. The agency sent him a notice in December 2015 stating that his QMB benefits were terminating effective January 1, 2016. The notice stated that his appeal was due no later than February 16, 2016. This was his 45 day appeal time limit. The Division of Hearings and Appeals did not receive the petitioner's appeal request until June 6, 2016. This is well beyond his time limit to appeal, and I am without jurisdiction to decide this case.

QMB is an MA program that covers eligible recipients Medicare premiums. *MA Eligibility Handbook (MEH)*, 32.1.1. See also, Wis. Stat. §49.468. Medicare is the health insurance program administered by the federal Centers for Medicare & Medicaid Services (CMS) for people over 65 and for certain younger disabled people. Medicare is divided into two types of health coverage. Hospitalization Insurance (Part A) pays hospital bills and certain skilled nursing facility expenses. Medical Insurance (Part B) pays doctors' bills and certain other charges.

Medicare charges premiums for its insurance. Wisconsin MA pays some or all Medicare premiums for the persons participating in the programs described below:

1. Qualified Medicare Beneficiary (QMB).
2. Specified Low-Income Medicare Beneficiary (SLMB).
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+),
4. Qualified Disabled and Working Individuals (QDWI).

MA Eligibility Handbook (MEH), 32.1.1. See also, Wis. Stat. §49.468.

The income limit is below 100% of the Federal Poverty Level (FPL) for QMB, 100% to 119% for SLMB, 120% to 134% for SLMB+, and up to 200% for QDWI. *MEH*, 32.2.3 & 39.5. A person who is eligible and certified for QMB will have his/her Medicare Part A and B premiums paid by the Wisconsin Medical Assistance program. A SLMB or SLMB+ recipient will have only his Medicare Part B premiums paid by Wisconsin MA. A QDWI recipient will have only his/her Medicare Part A premiums paid by the state MA program.

These Medical Assistance programs also have asset limits. The asset limit for QMB, SLMB, and SLMB+ is \$7,160.00 for a household size of one. *MEH*, 32.6. The asset limit for QDWI is \$4,000 for a household of one. *Id.*

In determining eligibility the agency must verify the accuracy of verbal or written statements made about a group's circumstances. *MEH*, 20.1.1. It is mandatory for the agency to verify a recipient's assets and income. *MEH*, 20.3.1. The manual instructs the agency to:

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

MEH, 20.8.3.

Although the petitioner's appeal is untimely, even if I had jurisdiction, I would find in the agency's favor. The petitioner states that he was timely acted on every notice he received. This is not true. There was a notice stating that he needed to provide verification with a due date of December 11, 2015. The petitioner never provided that verification. He also never contacted the agency to say that he was having difficulty providing the verification. On December 14, 2016 the agency sent the petitioner another notice stating that his QMB benefits were ending effective January 1, 2016. The petitioner never acted on that notice.

Nearly four months after receiving these notices the petitioner contacted the agency. The agency informed him that he needed to provide verification of his bank account balance. He attempted to get his bank account balance, but had difficulty because it was a negative balance. He contacted the agency again. The agency assisted him and verified his negative balance with his bank over the phone. The petitioner was able to reapply, and has QMB benefits effective May 1, 2016.

The program rules and regulations require the agency to verify assets. A person's bank account is an asset. In this case, the verification was due in December 2015. The petitioner never provided verification, nor did he contact the agency between December 1, 2015 and April 1, 2016. When a recipient has the power to produce the verification, the time allowed to produce the verification has passed, the agency provided adequate notice of the verification required, and the verification is necessary to determine eligibility, the agency must deny or terminate a person's benefits. Thus, even if the petitioner's appeal were timely, the agency's actions in this case were correct.

CONCLUSIONS OF LAW

The petitioner's appeal of the December 31, 2015 discontinuation of his QMB benefits is untimely.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

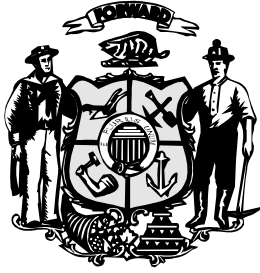
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of July, 2016

\s _____
Corinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 12, 2016.

Waupaca County Department of Social Services
Division of Health Care Access and Accountability